



Cabinet
13 September 2016

**Report from the Director of
Performance, Policy and
Partnerships**

For Information

**Covering Report for Scrutiny Task Group on
Community Infrastructure Levy (CIL) and Section 106**

1.0 Summary

- 1.1 This task group has been requested by the Scrutiny Members to ensure Brent council is achieving the best financial outcomes for the borough with its current CIL and section 106 agreements.
- 1.2 The purpose of the task group is to analyse and the current CIL and S106 processes with a view to ensuring that communities and councillors are engaged in the making of funding decisions.
- 1.3 The review was concerned with the CIL and S106 policies, engagement with communities and members and funding collection and allocation. The review also focused on the future of planning in Brent and looked at the South Kilburn development.
- 1.4 The review is aligned with borough priorities, such as the council's 2020 Outcome Based Reviews (OBRs) Employment Support and Welfare Reform and Regeneration (physical, social and environmental). The council's borough plan 2015-19 Better Place, emphasises increasing the supply of affordable, good quality housing; and Better Lives highlights supporting local enterprise, generating jobs for local people and helping people into work.

2.0 Recommendations

- 2.1 Members of the Cabinet consider the contents of the Community Infrastructure Levy (CIL) and Section 106 task group's report.
- 2.2 Members of the Cabinet approve the twenty five recommendations made by the task group and support the development of an action plan across the council and partner organisations to take these forward.
- 2.3 The Cabinet agree to receive a progress report against the recommendations in six months' time.

3.0 Detail

3.1 The task group reviewed the local arrangements of the council and its partner's, national research and guidelines, and, heard the views and opinions from local residents associations, neighbourhood forums and representatives from the voluntary sector. The task group consulted with officers, experts in this field and other London boroughs. The task group reviewed a number of concerns in the use of Community Infrastructure Levy (CIL) and Section 106 ; which formed the focus and key areas of the review, these included:

South Kilburn

- What were the key contributing factors to the success of South Kilburn?
- What can we learn?
- How can we emulate these practices across the borough?

Policy

- What are the council's current S106 and CIL policies and processes?, this includes:
 - How policies are aligned to the council's priorities?
 - What are the council's charging rates for CIL and priority S106 obligations?
- How does the council's current S106 and CIL policies, processes and performance compare with other local authorities?

Engagement

- What is the engagement model used?
- What is the involvement of elected members in the decision making processes for s106 and CIL funds?
- How can Brent residents become more actively engaged in the planning and development of local infrastructure?

Funding

- How funds have been spent and plans for spending future funds?
- How can funds be spent on more discretionary services, such as youth services, libraries and sports facilities?
- Can CIL & S106 funds be spent on mitigating negative social impacts?

Future Planning

- What are the council's priorities for future infrastructure in the borough?
- What is the status of impending S106 & CIL agreements?

3.2 The task group has made twenty six individual recommendations, spread across the five key questions outlined in its Terms of Reference. Each of these recommendations fall into one of five overarching themes which the task group believes should form the basis of Brent Council's future Community Infrastructure Levy (CIL) and Section 106 strategy.

1. Best practice

The council's planning department should actively seek examples of excellent practice regarding CIL collection and allocation; and the obligations stated in section 106 agreements from other local authorities and integrate these into its own long term strategy, whilst always ensuring that systems in Brent are designed to respond to the borough's unique needs. Performance targets should be carefully set, measured and benchmarked against other local authorities.

2. Engagement and Consultation

Public engagement in planning gain derived from development across the borough should become a council priority. The council should look for every opportunity to increase public awareness about the way local communities can help to shape their local environment through the planning system, particularly in relation to borough CIL receipts towards major community facilities and localised neighbourhood planning forum CIL receipts for smaller locally defined projects. This should also include wider consultation beyond the Cabinet members, planning committee, local councillors and officers by seeking to reach out to both residents, local businesses and hard to reach groups, particularly the younger and older communities who can participate in decisions about future developments in their local area and across the borough.

3. Alignment with strategic priorities

Brent Council should work to ensure that every development granted is aligned with the council's priorities such as social value that it received at a local/ neighbourhood level. The 2020 Outcome Based Reviews (OBRs) Housing Vulnerable People, Employment Support and Welfare Reform and Regeneration (physical, social and environmental). The council's borough plan 2015-19 Better Place, emphasises increasing the supply of affordable, good quality housing; and Better Lives highlights supporting local enterprise, generating jobs for local people and helping people into work.

It is right the council seek to use their planning gain receipts by reinvesting in projects that can produce a return using the Regeneration Benefit Assessment Tool, however, a balance must be struck on providing for cross sector strategic priorities and using receipts that also deliver local value add where communities directly benefit from development that emerges in their locality, which may not necessarily provide a return on investment – but provides for direct community value

4. Targeted transparency

All decisions about S106 and CIL should be made in a fully transparent way with the ability for the community and business stakeholders, Members (including back bench members whose wards are directly affected) to have the opportunity to engage in the process via different forms of consultation. Overall the council should be seeking to create a more transparent process, with increased focus on providing easy and understandable information for residents, businesses and developers to access to understand both how much money has been collected (on a quarterly basis) and demonstrate how the receipts are being utilised.

5. Working in partnership

In order to ensure that the council are getting the best possible outcomes (financial and otherwise) for the residents, and local business community of Brent, Brent Council should take every opportunity to improve partnership working with developers at a strategic level, supporting good pre-existing individual and team based relationships. Further partnership working should also include council partners such as the voluntary sector, resident associations and established neighbourhood forums. Following the Scrutiny Committee's discussion with the local development community, it was clear that there is a benefit to bring together a local developer forum that can actively engage with elected members on a quarterly basis to share points of view on how things are progressing across the borough and to use it as a vehicle to understand how the local property market across Brent is performing. The local developer forum would be an ideal opportunity to provide for a channel to look at how interested and active developers can support the council in meeting its strategic priorities and objectives.

3.3 Task Group Recommendations

South Kilburn

1. The successes of the South Kilburn Project engagement strategies and consultation activities is used as a benchmark when considering how to manage developments across the borough.

Policy

2. There is no clear leadership or responsibility on who is in charge on CIL and S106 and the task group recommend that a named officer assumes direct responsibility, accountability and operates in a more transparent way.
3. A public register is created (taken from the bi annual report and statement) detailing the infrastructure projects that are being funded directly through CIL receipts.
4. The council review its affordable housing policy and the relationship between s106 and CIL, once the Mayor of London announces its housing policy. As part of the review, a forensic independent analysis should be commissioned and reported back in a joint session to the Resources & Public Realm Scrutiny Committee and Cabinet on how the council is meeting its affordable housing targets in light of the introduction of CIL and the Mayor of London targets for social housing.
5. The council ensures that there is better understanding off planning performance in dealing with planning applications – both planning and legal team. This should be done be producing easy to understand guidance via the councils website.
6. The council carry out a review of delegated powers given to officers for spending limits and prioritisation of CIL/ S106 receipts for projects. All variations to CIL and S106 agreements be published quarterly and an agenda item at planning committee policy meetings.

7. The planning department conduct an annual review of S106 agreements and that where developers have not complied with the agreement action plans are included with that report. The task group recommend that that report is considered annually at a planning committee policy meeting and is available for scrutiny.

Engagement

8. The council invite the voluntary sector to submit proposals demonstrating the value they can add to supporting the expansion of Neighbourhood Forums. The council's expectation of the voluntary sector to include setting up viable community action groups, accessing available government funds, organising training for both the Neighbourhood Forums and elected members.
9. The current engagement and consultation process with residents is inadequate and it is recommended that where CIL receipts are to be spent, at least 25% of resident respond, the demographic make-up should be reflective of the population and the location concerned.
10. There is wider consultation with residents groups, faith groups, the business sector, residents associations and elected members before the Community Action Groups go live. The Community Action Groups have clear objectives linked to delivery of Community Development Plan objectives.
11. Elected ward members are involved in the decision making process for developments within their wards. Elected members should also be informed any planning applications in their wards with the view of engaging concerned residents and neighbourhood forums.
12. Provide neighbourhood forum training and support in whichever capacity is possible, in order for residents to create independent and sustainable Neighbourhood forums.
13. Support at the highest strategic level a Brent Developers Forum consisting of elected members and active developers in the borough which meets quarterly to review existing development projects and engages in forward planning. The task group recommend that a subcommittee of the developer's forum works with Community Action Groups to deliver added value to CIL projects.
14. Geographical Information System (GIS) mapping support is provided for voluntary sector organisations and neighbourhood forums, in order for these groups to access site previously and currently being developed.
15. Up-to-date information is provided about S106 /CIL that it is easily accessible and shared online and regularly email to members, neighbourhood forums and voluntary sector.

Funding

16. A bi –yearly report and financial statement is provided, outlining CIL receipts every six months showing the income and expenditure on specific projects funded

through CIL receipts should be provided to the Cabinet. An annual Report summarising CIL receipt income and expenditure should be published and presented to the Full Council annually together with a draft forward plan of strategic projects to be funded over the next year.

17. Neighbourhood CIL receipts are accounted for and a reporting and expenditure mechanism is established between the Council and designated Neighbourhood Planning Forums.
18. A more flexible allocation of CIL receipts beyond schemes that are prioritised through the Regeneration Benefits Assessment Tool (RBAT). The task group recommend that the Council review the Regeneration Benefits Assessment Tool (RBAT) after it has been operating for three years.
19. Consideration is given for borough CIL receipts use in the wider local communities (in both areas with and without Neighbourhood Planning Forums).

Future planning

20. A review of its CIL viability assessment test is commissioned to see if all the CIL receipts rates are viable and that it is not deterring the council's policy objectives in achieving its affordable housing targets.
21. Maximise the expertise and resources, directly or in kind of the development community and facilitate in partnership with CVS Brent, dialogue between developers and community/residents and neighbourhoods forums to work on community issues.
22. We recommend that S106 agreements are available to the Planning Committee as part of planning committee reports. We recommend the council review the viability of travel plans and ensure that detailed travel plans are included in all reports going to the planning committee. The council's planning officers should provide an in-depth and detailed briefing of the developments with regard to viability, CPZ and travel plans to the planning committee before the application is made.
23. Council planning negotiators ensure that agreements are aligned with council priorities has political oversight and accountability in order to take full advantage of future development/ regeneration opportunities; this includes priorities such as social value and employment.
24. The task group recommend that at least half of the Planning Committee members serve two years terms at any given time and all committee members and relevant committee members involved in housing and regeneration receive relevant up to date training on planning development and viability policy and practice issues.
25. The task group recommend regular strategic meetings on future regeneration issues is held between officers, the cabinet and chair of planning committee.

4.0 Financial Implications

- 4.1 Some of the recommendations noted within the report may have a cost attached to them. The majority of the laudable recommendations make use of existing officer time and resources. Working to support the creation of new neighbourhood forums, strengthening relations with partners and maximising social value and employment opportunities are all clear positive benefits to the community and the Council but it is important to recognise that these resources are finite.
- 4.2 Recommendation 4 refers to the commissioning of forensic independent analysis of Brent's affordable housing policy and the relationship to CIL and Section 106. This is currently uncosted but to procure a high quality piece of work from an external provider is not likely to cost less than £10k and might cost significantly more. Similarly, recommendation 20's request for a review of the CIL viability test would have a cost attached if it was procured externally rather than commissioned internally.

5.0 Legal Implications

- 5.1 The legislation surrounding CIL and S106 is complex, and the direction from central government is primarily focused on CIL. There should be further investigation from both Brent planning officers and Brent legal services to ensure the interpretation of CIL regulations meets requirements.

6.0 Diversity Implications

- 6.1 None

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 The following Brent services and partners would be affected by the recommendations made:
- Brent Planning Services
 - Brent Legal Service

Background Papers

Community Infrastructure Levy (CIL) and Section 106 task group Scope and Terms of Reference (February 2016).

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